

## Message Text

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ORIGIN SS-25

INFO OCT-01 ISO-00 SSO-00 NSCE-00 /026 R

DRAFTED BY L - S. SCHWEBEL:JV

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FM SECSTATE WASHDC

TO AMEMBASSY QUITO IMMEDIATE

C O N F I D E N T I A L STATE 224454

EXDIS

E.O. 11652: GDS

TAGS: ENRG, PFOR, EC

SUBJECT: USG ACTION RE THREATENED SEIZURE OF GULF  
OIL PROPERTIES

REFS: (A) QUITO 6308; (B) STATE 219401; (C) QUITO 6447

1. RE REFTEL (A), DEPT IS NOT PREPARED, UNLESS FURTHER  
CLARIFICATION OF THE ISSUES SO INDICATES, TO URGE GULF  
TO PAY WITHHELD DEPOSITS IN VIEW OF ALLEGED ANTERIOR  
MATERIAL BREACHES OF THE CONTRACTUAL REGIME BY GOE (AS  
NOTED REFTEL B). AT SAME TIME, WE SEE MERIT IN APPROACH  
OF PARA 4 REFTEL (A), I.E., SETOFF OF DEBTS OF GOE AGAINST  
AMOUNT BEING WITHHELD. THIS APPROACH WOULD PRESUMABLY  
ONLY BE VIABLE, HOWEVER, SHOULD THE BALANCE BE IN FAVOR  
OF GOE, AND WE ARE NOT CERTAIN THIS WOULD BE THE CASE.

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ALTERNATIVELY, INSTEAD OF GULF'S MAKING ANY PAYMENT AT

THIS POINT (IF THE BALANCE WERE IN FAVOR OF GOE), THAT BALANCE COULD BE APPLIED BY GULF TO REDUCE THE AMOUNT WHICH GOE WOULD PAY FOR GULF'S HOLDINGS UNDER THE TERMS OF A BUY-OUT. (IF THE BALANCE WERE IN FAVOR OF GULF, THAT BALANCE WOULD INCREASE THE AMOUNT WHICH THE GOE WOULD BE OBLIGED TO PAY GULF, PRESUMABLY AS PART OF A PACKAGE ARRANGEMENT FOR THE GOE'S PURCHASE OF GULF'S INTERESTS.)

WE ARE PREPARED TO EXPLORE THESE APPROACHES WITH GULF WHEN WE MEET WITH IT SEPTEMBER 14.

2. WE ALSO AGREE THAT GOE SHOULD NEGOTIATE WITH GULF SERIOUSLY ON QUESTION OF ITS PURCHASE OF GULF'S ASSETS, OR, ALTERNATIVELY, A COMPREHENSIVE SETTLEMENT OF THEIR DIFFERENCES.

3. WE ARE DISTURBED, HOWEVER, AT THE GOE'S ISSUANCE OF A NOTICE OF FORFEITURE AND ITS PUBLICATION OF IT. IN VIEW OF THE HISTORY OF THE GOE'S ACTIONS RELATING TO THE CONCESSION, WE THINK THERE EXISTS SUBSTANTIAL QUESTION WHETHER IT CAN ISSUE AND PRESS A FORFEITURE IN ACCORDANCE WITH INTERNATIONAL NORMS. WERE IT TO DO SO, THE POSSIBILITIES OF THE USG TREATING SUCH AN ACT AS CONFISCATORY, AND OF THE STATUTORY AND POLITICAL CONSEQUENCES WHICH YOUR MESSAGE NOTES, COULD WELL FOLLOW. WE ARE CONCERNED AS WELL BY VARGAS'S ANNOUNCEMENT THAT GOE HAS DECIDED TO NEGOTIATE A BUY-OUT OF GULF'S HOLDINGS IF AND ONLY IF GULF FULFILLS ALL ITS OBLIGATIONS UNDER ECUADORIAN LAW AND ITS CONTRACT. WE DO NOT BELIEVE GOE IS JUSTIFIED IN IMPOSING THAT CONDITION IN VIEW OF ITS RECORD OF PERFORMANCE UNDER THE CONTRACTUAL REGIME, AS CONCEDED EVEN BY VARGAS.

4. ACCORDINGLY, WE REQUEST YOU CAUTION THE GOE PER PARAS 2 AND 3 OF THIS MESSAGE, EMPHASIZING THAT WE TRUST THAT IT WILL NEGOTIATE A PURCHASE OF GULF'S ASSETS ON FAIR TERMS OR, ALTERNATIVELY, A COMPREHENSIVE SETTLEMENT OF GOE-GULF DIFFERENCES. FYI: ASSISTANT SECRETARY SHLAUDEMAN WILL MEET WITH TOP GULF EXECUTIVES SEPTEMBER 14 TO EXCHANGE VIEWS. END FYI. KISSINGER  
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